

# SENATE RECORD VOTE ANALYSIS

104th Congress  
1st Session

Vote No. 267

June 15, 1995, 4:42 p.m.  
Page S-8478 Temp. Record

## TELECOMMUNICATIONS/Elimination of Volume Discount Provisions

**SUBJECT:** Telecommunications Competition and Deregulation Act of 1995 . . . S. 652. Pressler (for Dole) amendment No. 1341.

### ACTION: AMENDMENT AGREED TO, 59-39

**SYNOPSIS:** As reported, S. 652, the Telecommunications Competition and Deregulation Act of 1995, will amend telecommunications laws and reduce regulations in order to promote competition in the telecommunications industry by eliminating barriers that prevent telephone companies, cable companies, and broadcasters from entering one another's markets. It will also permit electric utilities to enter the cable and telephone markets. Judicial control of telecommunications policy, including the "Modified Final Judgment" regime, will be terminated.

**The Pressler (for Dole) amendment** would strike the volume discounts provision. That provision, in effect, will require cable programmers to offer their programs to small cable companies at the same rates that they offer them to large cable companies.

**Those favoring** the amendment contended:

Some large cable programmers engage in price-gouging of small cable operators; some do not. This bill will impose an unfair, draconian solution to get at those companies that are guilty of price-gouging. It will mandate that programmers must give small companies the same volume discounts they give to large companies. This solution is extreme. Virtually every business in America gives discounts when its goods and services are purchased in bulk because it costs less to provide goods and services in bulk. Cable programmers should have the same right. This solution, and indeed any solution, is also now unnecessary, because it appears that the problem of price-gouging has been eliminated. Time Warner, one of the largest cable programmers, has just reached an agreement with a consortium of small cable operators to provide its programming at reasonable rates. In light of this apparent shift, small cable operators have now been calling our offices asking us not to support the volume discount provision in this bill. They tell us that problems still remain, but that this agreement has made them confident that they can negotiate better solutions than will result if the

(See other side)

YEAS (59)			NAYS (39)			NOT VOTING (1)	
Republicans (49 or 94%)	Democrats (10 or 22%)		Republicans (3 or 6%)	Democrats (36 or 78%)		Republicans (1)	Democrats (0)
Abraham	Inhofe	Baucus	Cohen	Akaka	Johnston	Hatch- <sup>2</sup>	
Ashcroft	Jeffords	Breaux	Gorton	Biden	Kerrey		
Bennett	Kassebaum	Bryan	Gramm	Bingaman	Kohl		
Bond	Kempthorne	Dodd		Boxer	Lautenberg		
Brown	Kyl	Feinstein		Bradley	Leahy		
Burns	Lott	Heflin		Bumpers	Levin		
Campbell	Lugar	Kennedy		Byrd	Lieberman		
Chafee	McCain	Kerry		Conrad	Mikulski		
Coats	McConnell	Moseley-Braun		Daschle	Moynihan		
Cochran	Murkowski	Reid		Dorgan	Murray		
Coverdell	Nickles			Exon	Nunn	VOTING PRESENT(1) Mack	
Craig	Packwood			Feingold	Pell		
D'Amato	Pressler			Ford	Pryor		
DeWine	Roth			Glenn	Robb		
Dole	Santorum			Graham	Rockefeller		
Domenici	Shelby			Harkin	Sarbanes		
Faircloth	Simpson			Hollings	Simon		
Frist	Smith			Inouye	Wellstone		
Grams	Snowe						
Grassley	Specter						
Gregg	Stevens					EXPLANATION OF ABSENCE: 1—Official Buisiness 2—Necessarily Absent 3—Illness 4—Other  SYMBOLS: AY—Announced Yea AN—Announced Nay PY—Paired Yea PN—Paired Nay	
Hatfield	Thomas						
Helms	Thompson						
Hutchison	Thurmond						
	Warner						

Government steps in with mandates and regulations, no matter how well meaning those mandates and regulations may be. We are pleased that the cable industry appears to be settling its internal problems without Government interference, and we urge our colleagues to support the Dole amendment.

**Those opposing** the amendment contended:

Argument 1:

The Dole amendment would strike the provision that will require cable programmers to offer their programming to small cable operators at the same rates that they offer it to large operators. On the merits, we strongly support requiring cable programming giants like Time Warner and Viacom to treat small cable operators fairly. Big cable companies can negotiate sweetheart deals, but many smaller companies, particularly in rural areas, are forced to pay outrageous prices. Without a requirement that small companies must be treated fairly by large programming corporations we do not think they will be. Accordingly, we oppose the Dole amendment.

Argument 2:

The despicable actions by Time Warner in this debate make it necessary for us to vote against this amendment, regardless of its merits. The sequence of events is as follows. Senator Pressler, the sponsor of this bill, and the full Commerce Committee agreed to report it with a requirement for large cable programmers to offer small cable operators the same rates that they offer to large cable operators. This so-called volume discount provision was deemed necessary because some large programmers, like Time Warner and Viacom, have used their enormous market share advantage to charge small cable companies extremely high rates. In a recent meeting with Time Warner, Senator Pressler made it clear that he would support making Time Warner and other programmers charge fair prices to small cable operators if they did not voluntarily do so. After that meeting, Time Warner entered into an agreement with the National Cable Television Cooperative, which represents small operators, to provide services. Time Warner then sent a letter on the agreement to Senator Pressler which stated in part, "As discussed with you and your staff, this agreement is entirely contingent on the removal of the program access provisions . . . ." This charge is outrageously false. At no time did Senator Pressler or his staff ever suggest any sort of a quid pro quo. He indicated that he preferred to have the industry settle the problem by itself, but that by no means meant that he was making some type of a deal to alter legislation. He certainly did not give any approval of the type of contingency contract which Time Warner has apparently negotiated. We realize that this agreement may signal an end to the problem, we realize that most small cable companies now probably support the Dole amendment, and we realize that Time Warner has since apologized for sending that letter, but we cannot let stand the appearance that Time Warner or any other company can dictate the scope of legislation. Accordingly, we urge the rejection of this amendment.